

**FINANCIAL CRIMES ENFORCEMENT NETWORK**

Check one: Issuance Bulletin Manual Supplement Amendment Revision

SUBJECT: POLICY TO FACILITATE THE PROVISION OF REASONABLE ACCOMMODATION

1. INTRODUCTION:

The Rehabilitation Act of 1973 requires federal agencies to provide reasonable accommodation to qualified employees or applicants with disabilities unless to do so would cause undue hardship. Executive Order 13164 requires every Federal agency to establish written procedures for processing reasonable accommodation requests for employees and applicants with disabilities. The Financial Crimes Enforcement Network's objective is to ensure that all employees and applicants for employment with disabilities enjoy equality of opportunity in the Federal workplace.

Many individuals with disabilities can apply for and perform jobs without the need for an accommodation. Where workplace barriers exist, such as physical obstacles or rules about how a job is to be performed, reasonable accommodations remove barriers that prevent people with disabilities from applying for, or performing, jobs for which they are qualified. Reasonable accommodations enable the Financial Crimes Enforcement Network to expand the pool of qualified workers, thus allowing the Financial Crime Enforcement Network to benefit from the talents of people who might otherwise be arbitrarily barred from employment. There are three categories of reasonable accommodations, each of which must be addressed by agency procedures:

- Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille);
- Modification or adjustments necessary to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and
- Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employments (such as removing physical barriers in an office cafeteria).

2. PURPOSE:

This Directive implements Executive Order 13164 signed by President Clinton on July 26, 2000, which requires every Federal agency to establish written procedures for processing reasonable accommodation requests for employees and applicants with disabilities. Additionally, this policy is intended to assist the Financial Crimes Enforcement Network in fulfilling its obligation to provide reasonable accommodations in accordance with the Rehabilitation Act of 1973, as amended.

3. POLICY:

The Financial Crimes Enforcement Network's policy is to ensure that all employees and applicants for employment with disabilities experience and enjoy equality of opportunity in the Financial Crimes Enforcement Network workplace, consistent with the national policy to create additional employment opportunities for people with disabilities. Specifically, the Financial Crimes Enforcement Network's policy is to provide a flexible process for promptly considering request for reasonable accommodation to enable management and requesting employees to enhance workplace opportunities for persons with disabilities.

4. SCOPE:

This Directive applies to all organizational components of the Financial Crimes Enforcement Network and all requests for reasonable accommodation made by employees with disabilities and applicants for employment with disabilities. The concept of reasonable accommodation applies to all aspects of employment, including recruitment, training, promotion, reassignments, rotational and developmental assignments and all benefits and privileges of employment.

These policies and procedures supplement the Equal Employment Opportunity Commission Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the American with Disabilities Act and the Equal Employment Opportunity Commission Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation (both documents available on the Equal Employment Opportunity Commission's internet site www.eeoc.gov).

5. AUTHORITY:

- a. Equal Employment Opportunity Commission Policy Guidance on Executive Order 13164, Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, dated October 20, 2000
- b. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, dated July 26, 2000
- c. Equal Employment Opportunity Enforcement Guidance on Reasonable Accommodation and Undue Hardship Under the American's With Disabilities Act, dated March 1, 1999
- d. The Rehabilitation Act of 1973 (29 U.S.C 701), as amended
- e. Department of the Treasury OEO-006-001, Procedures to Facilitate the Provision of Reasonable Accommodation, August 10, 2001

6. DEFINITIONS:

- a. **Alternative Dispute Resolution.** An informal dispute resolution process is any voluntary mechanism through which an individual may request reconsideration of a supervisor's denial of reasonable accommodation. The Financial Crimes Enforcement Network uses mediation as its method to resolve informal disputes. Mediators are obtained from the Treasury Shared Neutrals for this process.
- b. **Disability.** An impairment that substantially limits one or more of the major life activities.

- c. **Essential Function.** Those job duties that are so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing those duties. A function can be "essential" if, among other things, the position exists specifically to perform that function; there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform the function. Determination of the essential functions of a position must be done on a case-by-case basis so that it reflects the job as actually performed, and not simply the components of a generic position description.
- d. **Individual with a Disability.** A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of such an impairment, or is regarded as having such an impairment.
- e. **Major Life Activity.** Basic functions that the average person in the general population can perform with little or no difficulty, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- f. **Qualified Individual with a Disability.** An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position, without endangering the health and safety of the individual or others.
- g. **Reasonable Accommodation.** An adjustment, alteration, or change that enables a qualified person with a disability to apply for and be considered for a job, perform the essential job duties, or enjoy benefits and privileges of employment.
- h. **Undue Hardship.** An undue hardship means that a specific accommodation would require significant difficulty or expense. A determination of undue hardship must be made on a case-by-case basis, considering factors such as the nature and cost of the accommodation needed and the impact of the reasonable accommodation on the operations of the agency, an analysis that may include the agency's size, financial resources, and the nature and structure of the position.

7. RESPONSIBILITIES:

The Office of Outreach and Workplace Solutions is responsible for providing advice and guidance to all Financial Crimes Enforcement Network employees and managers concerning reasonable accommodation requests and related issues. The Office of Outreach and Workplace Solutions is the designated office to maintain records and monitor the request through closure.

The Office of Human Resources or the Office of Outreach and Workplace Solutions (student program applicants) is responsible if the request for accommodation is from an applicant. The Office of Human Resources will serve as the non-student applicant supervisor.

The employee or a representative on behalf of the employee or applicant may request a reasonable accommodation orally or in writing. The employee is required to provide medical documentation, if needed. The employee should be involved in the process, including

participating in helping to identify the most effective accommodation. The supervisor and requesting individual should talk to each other to make certain that there is a full exchange of relevant information.

Within two business days of the initial request, the requester's first level supervisor will consult with the Office of Outreach and Workplace Solutions to identify possible accommodations for the requester.

The second level supervisor serves as the Deciding Official in the appeal process.

8. PROCEDURE FOR REQUESTING AN ACCOMMODATION:

- A. The reasonable accommodation process begins when an applicant or employee makes a request for accommodation orally or in writing. To ensure accurate records regarding requests for reasonable accommodation, oral requests for accommodation must be followed with a written request (See Appendix A: Request for Reasonable Accommodation Form) within three business days. The request does not have to use any special or legal terms such as "reasonable accommodation," "disability" or "Rehabilitation Act." A person with a disability may request a reasonable accommodation at any time, even if s/he has not previously disclosed the existence of a disability. This request can be from a family member, health professional or any other representative on behalf of an employee or applicant with a disability. The person with a disability will be contacted to confirm if in fact s/he wants a reasonable accommodation. Persons with a disability can refuse to accept a reasonable accommodation. Requesting reasonable accommodation does not necessarily mean that it is granted or that the Financial Crimes Enforcement Network is required to provide the accommodation.
- B. The Financial Crimes Enforcement Network is required to consider a request for a reasonable accommodation if it is made to a management official, or a specialist from the Office of Human Resources or the Office of Outreach and Workplace Solutions. The Financial Crimes Enforcement Network officials involved in the process should seek out and consider possible accommodations, including consulting appropriate resources for assistance through the Office of Outreach and Workplace Solutions. The employee requesting reasonable accommodation should also participate in helping to identify the most effective accommodation.
- C. When an individual needs a reasonable accommodation on a recurring basis (e.g., the assistance of sign language interpreters or readers), a written request is required only for the initial request; however, appropriate notice must be given each time the accommodation is needed.

9. TIME FRAMES FOR PROCESSING REQUESTS AND PROVIDING REASONABLE ACCOMMODATIONS:

- A. A request should be processed within 30 calendar days from the initial date of the request, absent extenuating circumstances.
- B. A determination, whether medical documentation is required should be made within seven calendar days from the date of the request, absent extenuating circumstances.
- C. All applicant or employee requests needing immediate assistance in less than 30 calendar days will be promptly evaluated and processed expeditiously (such as an employee needing a sign language interpreter or some other assistance needed to attend a meeting scheduled to take place in five days).

10. REQUEST FOR MEDICAL INFORMATION:

- A. The Financial Crimes Enforcement Network is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In cases where the nature and extent of the disability and need for accommodation are obvious or already known, further medical information may not be requested and the supervisor or responsible official for applicants shall process the request. When the nature and extent of the disability and/or need for reasonable accommodation is not obvious or known, the requester's first level supervisor should forward the request to the Office of Outreach and Workplace Solutions for a determination of whether it is appropriate to require the individual requesting a reasonable accommodation to provide documentation about the disability and his/her functional limitations.
- D. Within seven calendar days of the request, the Office of Outreach and Workplace Solutions will determine whether medical documentation is needed to evaluate the reasonable accommodation request. If a request for medical documentation is not necessary, the Office of Outreach and Workplace Solutions will inform the first level supervisor of this determination, and the first level supervisor will continue their review of the request.
- E. If medical information is necessary, the Office of Outreach and Workplace Solutions will issue directly to the employee a formal request for sufficient medical documentation, along with a medical release form. This medical information must be obtained from an appropriate professional such as a doctor, social worker or rehabilitation counselor. All requests for medical information should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information.
- F. Once the medical documentation is received, the Office of Outreach and Workplace Solutions may refer the documentation to the Financial Crimes Enforcement Network's consulting physician, who will review the information, along with the employee's position description and current Employee Performance Plan, and, if necessary discuss with the employee's doctor or health professional whether accommodation is needed. If additional medical information is needed, the Financial Crimes Enforcement Network's consulting physician will make this request to the individual through the Office of Outreach and Workplace Solutions. The Financial Crimes Enforcement Network's consulting physician is

required to explain why the information provided is insufficient, what additional information is needed and why it is necessary to determine the reasonable accommodation request. Failure by the individual to provide the requested medical documentation may result in a denial of having a reasonable accommodation request.

- G. The Office of Outreach and Workplace Solutions will notify the supervisor whether the documentation demonstrates that a proposed reasonable accommodation request is justified by the employee's condition, and provide, if necessary, additional information about the individual's functional limitations.
- H. Confidentiality of Medical Information. Medical information received in support of a reasonable accommodation request is confidential. It must be kept in files separate from the individual's personnel file. It may not be disclosed except as follows:
 - Supervisors and managers who need to know may be told about necessary restrictions on the work or duties of the employee and about the necessary accommodation;
 - First aid and safety personnel may be told if the disability might require emergency treatment;
 - Government officials may be given information necessary to investigate the Financial Crimes Enforcement Network's compliance with the Rehabilitation Act; and
 - The Office of Outreach and Workplace Solutions may be given the information to maintain records and evaluate and report on the Financial Crimes Enforcement Network's performance in processing reasonable accommodation request.

11. GRANTING A REASONABLE ACCOMMODATION REQUEST:

As soon as a reasonable accommodation is granted, the first level supervisor shall promptly notify the individual. If there is a delay in providing the accommodation, the first level supervisor must inform the individual in writing of the projected time frame when the accommodation will be delivered. For record keeping purposes, the first level supervisor shall notify the Office of Outreach and Workplace Solutions that the accommodation was granted.

12. DENYING A REASONABLE ACCOMMODATION REQUEST:

- A. If the first level supervisor determines not to grant a request for reasonable accommodation, within 24 hours, s/he shall provide notification in writing to the requester with an explanation as to why the request was denied and a courtesy copy to the Office of Outreach and Workplace Solutions for record keeping purposes.
- B. If the first level supervisor offers an alternative accommodation that is not accepted by the requester, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the alternative accommodation would be effective.
- C. Reasons for denial of a request for reasonable accommodation must include specific reasons for the denial explaining why the accommodation would not be effective or why it would result in undue hardship.

13. APPEALING A REASONABLE ACCOMMODATION REQUEST:

- A. If the first level supervisor denies the accommodation, the employee or applicant has the right to appeal to the next management official level or the employee may opt to participate in the Alternative Dispute Resolution process.
- B. If second level management denies the request for accommodation or no agreement is reached through the Alternative Dispute Resolution process, the Office of Outreach and Workplace Solutions will issue to the employee the Financial Crimes Enforcement Network's final decision letter with notification of their appeal rights.
- C. The final written decision notice of denial will inform the individual that s/he has the right to file an EEO complaint and may have rights to pursue the Merit Systems Protection Board.

14. RECORDS AND REPORTS:

The Office of Outreach and Workplace Solutions shall be responsible for maintaining custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records and will respond to all requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the confidentiality requirements of 29 C.F.R. 1611 and the Equal Employment Opportunity Commission order 150.003.

15. OFFICE OF PRIMARY INTEREST:

Office of Outreach and Workplace Solutions

/s/
William J. Fox
Director